

REMARKS/ARGUMENTS

Favorable reconsideration of this application is respectfully requested.

Claims 1-21 are pending in this application. Claims 1, 3, 9, and 11 have been amended to more clearly define the invention without the introduction of any new matter.

The outstanding Office Action includes a rejection of Claims 3, 4, and 9-12 as being indefinite under the second paragraph of 35 U.S.C. §112 and a rejection of Claims 1-20 under 35 U.S.C. §103(a) as being unpatentable over Belotserkovskiy et al. (U.S. Patent No. 6,453,210, Belotserkovskiy).

It is believed that the rejection of Claims 3, 4, and 9-12 as being indefinite under the second paragraph of 35 U.S.C. §112 on page 2 of the outstanding Office Action is not applicable to amended Claims 3, 4, 9, and 11 that address and correct the points noted in this rejection. If the Examiner believes that further formal changes are required, he is invited to contact Applicants' representative at the below-indicated telephone number so that mutually agreeable formal changes can be agreed upon.

Turning to the rejection of Claims 1-20 under 35 U.S.C. §103(a) as being unpatentable over Belotserkovskiy, it is first noted that column 6, lines 40-60, of Belotserkovskiy relied on at page 3 of the outstanding Action as teaching "personal user data peculiar to a separate terminal" merely discloses that "remote client work stations 16 running restricted client In Touch TM software can access the database across a high-speed network," with Ethernet mentioned as an example of such a network. While these plural work stations 16 can "develop and load new recipes for new casting parts, and display the current status of machines

connected to a PLC on the factory floor,” this is not seen to teach or suggest any data reasonably readable as “personal user data peculiar to a separate terminal” as there is nothing “personal” as to any particular user as to loading new recipes and because these new recipes are not disclosed or suggested to be in any way “peculiar” to any one of the workstations 16 as any one can be used to load a new recipe.

To highlight this difference between the invention of Claim 1 and the reasonable teachings and suggestions of column 6, lines 40-60, of Belotserkovskiy, Claim 1 now emphasizes the inherent relationships of the previous Claim 1 language by reciting that “personal user data peculiar to a particular user and to a particular user terminal of that user different from the local terminal device.” Clearly, the recipes for new casting parts are in no way data “peculiar to a particular user” of any of the workstations 16 that are disclosed to all be able to load the new recipes that, therefore, cannot be said to be “peculiar . . . to a particular [not simply any] user terminal of that user.”

As the changes made to Claim 1 clearly merely emphasize what Claim 1 already stated, no new search or other considerations are required and the amendment thereof should be entered.

Moreover, the assertion at page 3 of the outstanding Action that an unidentified “feature of the description of (ICA)” (an application executed on application server 11 as noted at column 6, lines 4-7) is to be somehow considered “in combination” with either all of or some unspecified number of the listed elements “(11, 14, 16, 18, 19 and OTHER SERVER(S) & SEVERS/HUB)” described somewhere in “Columns 5-12 “ to teach the Claim 1 language

referenced there and the Claim 1 “control means for controlling the terminal device” again violates the requirements of 37 CFR § 1.104(c)(2). This shotgun approach further violates court precedent. See In re Rijckaert, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993) (“When the PTO asserts that there is an explicit or implicit teaching or suggestion in the prior art, it must indicate where such a teaching or suggestion appears in the reference.”) and In re Lee, 61 USPQ2d 1430, 143 (Fed. Cir. 2002) as follows:

The Administrative Procedure Act, which governs the proceedings of administrative agencies and related judicial review, establishes a scheme of “reasoned decision making.” Not only must an agency’s decreed result be within the scope of its lawful authority, but the process by which it reaches that result must be logical and rational. This standard requires that the agency not only have reached a sound decision, but have articulated the reasons for that decision. [Emphasis added, citation omitted.]

Furthermore, the outstanding Action listing of the Claim 1 “control means for controlling the terminal device” as if it were an element to be considered independent of the terminal apparatus instead of as a part of that apparatus as specified by Claim 1 has not been explained. In this regard, to the extent that the outstanding Action interprets the primary processing cell 31 to be reasonably readable as the “terminal device,” then it must be explained how this device (processing cell 31) and not some other devices disclosed by Belotserkovskiy, such as the relied upon “feature of the description of (ICA) in combination with (11, 14, 16, 18, 19 and OTHER SERVER(S) & SEVERS/HUB), none of which is disclosed to be a control means in the processing cell 31.

Furthermore, the rationale of paragraph ii on page 5 of the outstanding Action asserting that Belotserkovskiy teach limitations “substantially identical to the invention” is not a proper

rationale to support an obviousness rejection any more than the mere allegation that the artisan would some how “come up with the claimed invention from the teachings of Belotserkovskiy for the reasons stated above” is when no differences are stated along with reference modifications to address those differences and motivation to make such modifications. See In re Kotzab, 55 USPQ2d 1313, 1316-17 (Fed. Cir. 2000)) (“Even when obviousness is based on a single prior art reference, there must be a showing of a suggestion or motivation to modify the teachings of that reference.”). Accordingly, as there has been no showing of motivation for suggesting any changes or even what the nature of the changes to Belotserkovskiy might be, no case of *prima facie* obviousness has been established and the rejection of Claim 1 is traversed on this grounds too.

Accordingly, as Claims 1-5 all include the above argued limitations (Claims 2-5 by virtue of depending from Claim 1), the rejection thereof over Belotserkovskiy is traversed based upon the above-noted arguments.

In addition, the rejection of Claims 2-5 over Belotserkovskiy is further traversed because each of these claims adds features to parent Claim 1 that are also not reasonably taught of fairly suggested by Belotserkovskiy.

With further regard to the rejection of Claims 6-20 under 35 U.S.C. §103(a) as being unpatentable over Belotserkovskiy, it is noted that Belotserkovskiy does not reasonably teach or fairly suggest the basic subject matter of each of independent base Claims 6, 9, 11, 13, and 20 requiring that a terminal device be controlled by a terminal device control function that is provided from a different terminal apparatus in communication with the terminal device based

on terminal information that is provided by the terminal device to the terminal apparatus.

With specific regard to independent Claim 6, the outstanding Action fails to present any separate explanation for the rejection of this claim beyond noting this claim is somehow deemed to be “functionally & substantially identical to the above apparatus claims” in paragraph iii at the bottom of page 5 of the outstanding Action. Lacking here or elsewhere in the outstanding Action is any indication as to which apparatus claim discussion (that of Claims 1, 2, 3, 4, 5, or 9) is being referenced, much less what teachings or reasonable suggestions found in Belotserkovskiy and noted as to these discussions of the apparatus claims are relied upon as evidence of obviousness and/or motivation to modify Belotserkovskiy as to the subject matter of independent Claim 6, for example. As there has again been no valid presentation of any *prima facie* case of obviousness as to the subject matter of independent Claim 6, this rejection is traversed.

As Claims 7 and 8 depend from Claim 6, the rejection thereof over Belotserkovskiy is further traversed because of the reasons set forth above as to parent Claim 6.

In addition, the rejection of Claims 7 and 8 over Belotserkovskiy is further traversed because each of these claims adds features to parent Claim 6 that are also not reasonably taught of fairly suggested by Belotserkovskiy.

With further regard to independent Claims 9 and 11, these claims require the terminal information provided to the terminal control apparatus must indicate the type of terminal device communicating with the terminal control apparatus as well as the capabilities of that

type of terminal device. This terminal information as to terminal device type and capabilities is then used to select terminal device control functions to control the function units in the terminal device.

The outstanding Action does not explain how any of the devices external to device 31 can be said to receive terminal information indicating the type or capabilities of device 31, much less how this terminal information that is not received is then used to select any terminal device control functions to control the function units in the terminal device 31.

Instead, the discussion of the rejection applied to apparatus Claim 9 at the top of page 5 of the outstanding Action suggests that column 8, lines 28-29, of Belotserkovskiy somehow suggest that “different types of machine can be controlled by ICA via PLCs.” However, column 8, lines 25- 31 of Belotserkovskiy simply teach downloading of shell part via the ICA into the PLC 13 and that various types of machines can be used in each cell 31 for the casting shell process. These limitations are directed to the type and capabilities of the terminal device being part of the terminal information that is used to select terminal device control functions to control function units in the terminal device and not to determining the types of functional units that would correspond to the machines noted by Belotserkovskiy to be inside the cells 31.

As there has again been no valid presentation of any *prima facie* case of obviousness as to the subject matter of independent Claims 9 and 11 as noted above, this rejection of Claims 9 and 11 is traversed.

As Claim 10 depends from independent Claim 9 and Claim 12 depends from independent Claim 11, the rejection thereof over Belotserkovskiy is further traversed because

of the reasons set forth above as to respective parent independent Claims 9 and 11.

In addition, the rejection of Claims 10 and 12 over Belotserkovskiy is further traversed because each of these dependent claims adds features to its respective parent claim that are also not reasonably taught of fairly suggested by Belotserkovskiy.

Turning to independent Claim 13, the outstanding Action fails to present any separate explanation for the rejection of this claim beyond noting this claim is somehow deemed to be “functionally & substantially identical to the above apparatus claims” in paragraph iii at the bottom of page 5 of the outstanding Action. Lacking here or elsewhere in the outstanding Action is any indication as to which apparatus claim discussion (that of Claims 1, 2, 3, 4, 5, or 9) is being referenced, much less what teachings or reasonable suggestions found in Belotserkovskiy and noted as to these discussions of the apparatus claims are relied upon as evidence of obviousness and/or motivation to modify Belotserkovskiy as to the subject matter of independent Claim 13, for example. As there has again been no valid presentation of any *prima facie* case of obviousness as to the subject matter of independent Claim 13, this rejection is traversed.

As Claims 14-19 depend from independent Claim 13, the rejection of these dependent claims over Belotserkoven is further traversed because of the reasons set forth above as to parent independent Claim 13.

In addition, the rejection of dependent Claims 14-19 over Belotserkoven is further traversed because each of these claims adds features to parent Claim 13 that are also not reasonably taught of fairly suggested by Belotserkoven.

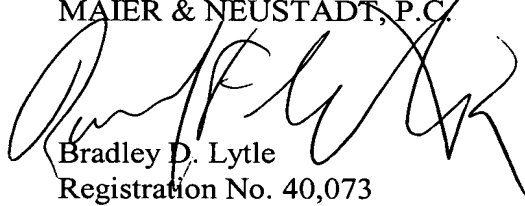
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Reply to Office Action of November 19, 2003

As no further issues are believed to remain outstanding in the present application, it is believed that this application is clearly in condition for formal allowance and an early and favorable action to that effect is, therefore, respectfully requested.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.

A handwritten signature in black ink, appearing to read 'Bradley D. Lytle', is written over the printed name and title.

Bradley D. Lytle
Registration No. 40,073

Attorney of Record
Raymond F. Cardillo, Jr.
Registration No. 40,440

Customer Number

22850

(703) 413-3000
(703) 413-2220 (fax)
BDL/RFC/jmp
I:\atty\rfc\203843-AM.wpd